

BEFORE THE DEPARTMENT OF JUSTICE
FOR THE STATE OF MONTANA

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| In the Matter of the Certificate |) | PRELIMINARY |
| of Public Advantage Issued to |) | FINDINGS CONCERNING |
| Benefis Healthcare, Great Falls, |) | COMPLIANCE WITH TERMS |
| Montana. |) | AND CONDITIONS |

This matter is before the Department on review of the 1999 annual progress report submitted by Benefis Healthcare under Mont. Code Ann. § 50-4-622 and Mont. Admin. R. 23.18.106. The progress report enables the Department to evaluate the impact of the hospital consolidation on the availability, cost effectiveness, quality, and delivery of health care services and to determine whether the hospital has complied with the terms and conditions of the Certificate of Public Advantage (COPA) approving the consolidation.

I. BACKGROUND¹

The Department of Justice received the hospital's 1999 annual report on April 5, 2000, and the hospital's audited financial report on April 26, 2000. Thereafter, the Department received the reports of the Department of Public Health and Human Services (PHHS) and of the Independent Auditor.

These submissions follow the March 1999 decision by the Department to grant limited modifications to the COPA regulation. In particular, of eight separate requests the hospital submitted, the Department approved the following two:

- an increase in the staffing ratio, which will allow approximately 74 additional

¹ Complete information regarding the particulars of the July 1996 COPA is available in the COPA itself and in related decisions issued by the Department. Documents are available from the Department on request by interested parties or on the Department of Justice website, at <http://www.doj.state.mt.us/ago/MERGERLIST.htm>.

employees. This change was intended to address concerns expressed by the public and Benefis employees relating to availability and responsiveness of nurses and other patient service staff.

– change in the inflation index on which the revenue cap is calculated, using the Market Basket inflation index that takes into account the price of the materials and services it must purchase, rather than an index based on the change in the prices paid by those who purchase hospital services. It also may use the new inflation index in future calculations of its revenues.²

Having reviewed and carefully considered all information provided to date by the hospital, PHHS, and the independent accountant, the Department is prepared to enter preliminary findings regarding the extent of Benefis's compliance with the COPA. However, pursuant to its authority under Mont. Admin. R. 23.18.106(3), the Department will follow its custom of soliciting public comment on Benefis's compliance with the COPA and will accept written comment for a period of 30 days following the issuance of these preliminary findings.

II. COMPLIANCE WITH TERMS AND CONDITIONS

A. Savings and Price Reductions

The Department adopts the report of the independent accountant, Myers and Stauffer LC, and finds that for the period ending December 31, 1999, the hospital has complied with the terms of the cost regulation imposed by the COPA. The Myers and Stauffer report is attached to this document and incorporated by reference.

Among its notable findings, the Myers and Stauffer report concludes that inpatient hospital prices have declined by about 6.9% and outpatient prices by about 14.1% from 1995

² The Department's written decision on Benefis's request for modifications to the COPA is available at <http://www.doj.state.mt.us/ago/modrequest.html>.

levels. As compared to 1998, aggregate prices declined in 1999, with inpatient prices decreasing by about 1.1% and outpatient prices increasing by 0.8%. Many service areas experienced no pricing changes between 1998 and 1999.

Actual patient revenues in 1999 exceeded the COPA's patient revenue cap by approximately \$0.9 million. Combined with prior years, which had achieved a balance of \$0.6 million below the cap, the cumulative excess amount for the 1996-1999 period stands at \$0.3 million. The hospital is in compliance with the revenue cap conditions imposed by the COPA.

The hospital also has been successful in reducing its expenses. Although total expenses for 1999, exclusive of bad debts, increased by approximately 1.5% over 1998 levels, that amount was less than the MBI inflationary rate of 2.5% for the corresponding time period. Even without an adjustment for inflation, expenses for 1999 were lower than 1996 levels by approximately \$2.8 million. In addition, although staffing levels have decreased slightly since 1998, average employee salaries and benefits per FTE increased by approximately 7%, which includes the cost of a new employee "gainsharing" program that provides bonuses for employees who meet certain cost targets.

B. Quality of Health Care Services

1. PHHS Monitoring

Pursuant to section 2 of the terms and conditions of the COPA, the Department of Public Health and Human Services (PHHS) has overseen the monitoring of quality of care at the hospital since the consolidation occurred. For 1999, PHHS again measured six areas for quality indicators, using consistent measurements in an effort to establish facility-specific benchmarks over time.

The data gathered through the PHHS monitoring devices show the following:

1. Maternity Services: During the reporting year, Benefis reported below the national benchmark of 2.6 days for discharges of maternity length of stay. PHHS has no recommendations at this time.
2. Orthopedic Services: Similar to the previous reporting period, the hospital showed higher than average rates of infection for post-operative knee and hip patients. The rates may be somewhat skewed as a result of the low number of total surgeries, and no trends were identified as to the cause of the infections. PHHS will continue to monitor closely infection rates for postoperative hips and knees. Since this appears to be a recurring issue in the annual review process, the Department urges the hospital to make every reasonable effort to address this concern.
3. Emergency Room: Waiting times for emergency room services increased slightly over the previous period, with an average wait time of 9.17 minutes. PHHS determined that critical emergency patients are seen immediately by a medical practitioner, and that the increase of slightly more than two minutes was not statistically important. There are no established national benchmarks in this area and PHHS has no recommendations. The Department finds the average waiting time to be within acceptable limits, provided critical emergencies are treated immediately, but encourages the hospital to keep its efforts focused on holding down the average waiting time.

PHHS also found that Benefis has a lower mortality rate in emergency cardiac cases

than both the national and state averages. In 1999, the national average mortality rate was 10.2%, while the state average was 6.5% and the Benefis average was 5.2%.

4. Surgical Capacity and Utilization: PHHS concluded that the hospital continues to underutilize its operating rooms, with an average utilization rate of 41.5%, down from 49% the previous year. PHHS noted that the opening of two ambulatory surgery centers has decreased operating room utilization. PHHS has no recommendations for improving utilization.
5. Rehabilitation Services: Based on studies of patient improvement levels, PHHS concluded that the hospital's rehabilitation unit is again meeting or exceeding regional and national averages. Length of stay and waiting times are also within acceptable parameters.
6. Medical/Surgical Inpatients: PHHS compared infection rates with data from the first reporting year and with preconsolidation data of the two campuses. While the data did not show any trends or cluster of infections, nosocomial infection rates (infections contracted while a patient is in the hospital) were slightly higher—at 2.74% for the East Campus—than the 1996 preconsolidation rate of 2.4% at the former Deaconess Medical Center. The hospital does appear to be within national averages. PHHS will continue to meet quarterly with the infection control coordinator to make sure all infections are investigated and to identify any trends or clusters. As the Department has previously observed, infection rates are a key component of quality monitoring, and the hospital should continue to pay careful attention to this area.

2. JCAHO Evaluation

The Joint Commission on Accreditation of Healthcare Organizations (JCAHO) completed its survey the week of October 18, 1999. The survey resulted in a three-year accreditation from the JCAHO with a preliminary score of 81%. JCAHO identified 18 "type 1" recommendations and six supplemental recommendations. Following Benefis's submission of plans to address each area of recommendation, the total score was raised to 94%.

3. Patient Satisfaction Surveys

The hospital continues to conduct patient satisfaction surveys in the areas of outpatient surgery, inpatient hospitalization, emergency room, and convenience care physician offices. These four areas are considered high patient-care areas that are susceptible to more problems and more patient complaints. Both the return rate and the rate of overall patient satisfaction continue to be somewhat lower at Benefis than the national averages, although satisfaction levels did show some improvement over 1998. The hospital has developed a new form that is given to each patient who occupies a bed, with follow-up by the patient advocate of any complaints. The new form and procedure should help to develop more accurate satisfaction scores for the 2000 reporting period. The hospital reports that patient satisfaction continues to be a primary area of emphasis and has been tied to the 2000 gain-sharing program for employees.

4. Patient Advocate

In compliance with section 2.17 of the terms and conditions, the hospital's patient advocate continues to receive and review patient inquiries and complaints about quality of care. For the 1999 reporting year, there were 174 inquiries handled by the patient advocate. The

average resolution time improved to 9.8 days, down from 11 days in 1998.

The patient advocate continues to respond in a timely manner to patient inquiries and to resolve most complaints without additional intervention from either the Regional Community Health Council or PHHS. The number of complaints appears to be relatively stable from year to year, showing no significant trends concerning quality of care problems at the hospital.

5. Staffing Ratios

The average number of both Registered Nurse (RN) hours per patient day and Licensed Professional Nurse (LPN) hours declined slightly in 1999, reversing increases seen in 1998. The overall number of hours spent on nursing units continues to exceed national averages.

As noted above, staffing levels declined in 1999, with a total FTE count of 1679, compared to 1700 in 1998. This is down from the June 1996 level of 1891 FTE.

The PHHS report again notes that the hospital should take steps to ensure that agency nurses are properly trained in the policies and procedures of the units to which they are assigned, so additional pressures are not placed on the permanent staff.

6. Physician Surveys

A professional staff survey was administered by Parkside Associates, Inc., in March 1999. Respondents identified several areas where improvements could be made in the provision of hospital services, including patient reporting; timeliness of follow-through on written orders; patient discharge arrangements; nursing staff ratios; and access to information on patients. In a March 2000 letter to physicians, the hospital indicated that steps have been taken to address the issues raised by the physician survey. Additional surveying was conducted in 2000, and the results should indicate whether progress has been made in these

areas.

7. Employee Surveys

The third survey of Benefis's employees since the COPA took effect resulted in a 50% rate of return. Although below norms for similar survey participation, participation was 25% higher than the previous year, with a total of 1020 employees participating. The survey process is designed to allow the hospital to compare its employees' attitudes against other acute healthcare workers nationwide.

Benefis Healthcare ranks average in the attitudinal areas categorized as Department Head, Communications, Salary, Peer Work Relationships, Job Demands, and Resource Utilization. The hospital again received a score of -4 or lower, which is considered a "significant variance" from the norm, in nine categories (down from 10 in 1998): Administration, Job Security, Personnel Policies, Job Mobility, Supervision, Benefits, Evaluations, and Participation. When compared with the previous year's survey, however, Benefis showed significant improvement in the areas of Job Mobility, Administration, Department Head, Communications, Salary, Participation, and Evaluations.

The Department is encouraged by the increased employee participation rates and by the hospital's improvement in several areas, and urges the hospital to continue its efforts to improve participation and employee satisfaction.

C. Charitable Contributions

Although there was a decline in charity care of 17% from 1998 levels, those levels—as noted in the Department's last findings—were unusually high. The hospital provided \$4 million in charity care in 1999, a 134% increase over premerger levels. Benefis continued to

utilize higher income thresholds in its charity care policies, allowing for the provision of charity care to more patients.

D. Community Health

In compliance with section 3.3 of the COPA, the volunteer Regional Community Health Council made significant contributions to community health in 1999. Most notable was its progress toward the development of community health goals and strategies. Using donated funds, the Council has conducted research into various health status indicators for the service area and issued a well-received public report. The Council continues to review and comment on the hospital's strategic plan and to process a limited number of health care complaints from members of the community.

The Council's plan to identify services of health providers via an Internet-based directory has been hindered by lack of resources. In fact, although the Council designed and launched an informative web site, the site is now out of date. The Department recommends that the Council explore ways to keep its Internet site updated, and if that cannot be accomplished, abandon the project altogether except for a brief description of the Council and its functions.

Finally, the Council experienced some difficulty during the reporting period related to turnover among its membership and low turnout for meetings. The Council has shifted from a monthly to a quarterly meeting schedule, with the goal of focusing its efforts on productive but less frequent meetings to maximize participation.

Benefis itself also provided numerous community health activities, including educational awareness and prevention programs, health screenings, and continuing education

workshops throughout the state.

E. Access to Health Care Services

The Department finds that Benefis is in compliance with section 4 of the terms and conditions pertaining to the provision of services.

F. Other Conditions

The Department finds that Benefis is complying with other terms and conditions of the COPA not specifically discussed previously in these findings.

III. CONCLUSION

Benefis completed the last of its merger-related consolidations and renovations in 1999. Although it experienced a decline in aggregate outpatient volume, that decline was offset by an increase in hospital inpatient days, resulting in a largely stable volume over the year. Benefis has satisfied the revenue cap requirements for calendar year 1999 and continues to offer prices markedly lower than premerger levels.

In addition, the hospital appears to be making significant progress in stabilizing the effects of the consolidation on its workforce and its patients. Hospital management staff continue to work hard to identify issues of concern and areas for improvement, and have shown a high level of commitment to continuous improvement in patient care and employee satisfaction.

Comments on these preliminary findings will be accepted until November 6, 2000. Comments should address the extent to which the consolidation has affected hospital-based health care costs, quality of health care services provided by the hospital, and accessibility of health care services. Comments may be e-mailed to contactdoj@state.mt.us or sent to the

Department at the following address:

Legal Services Division
Montana Department of Justice
P.O. Box 201401
Helena, MT 59620-1401

DATED this ____ day of October, 2000.

JOSEPH P. MAZUREK
Attorney General